IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

MFA.No. 1330 of 2001()

OP(MV).5446/1995 of MOTOR ACCIDENT CLAIMS TRIBUNAL, VADAKARA DT.31.05.2001
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APPELLANT: PETITIONER

KUTTIYIL ASHRAF, SON OF AMMAD,
AGED 22 YEARS, RESIDING AT KUTTIYIL HOUSE,
KADAMERI AMSOM, ELAYADAM DESOM P.O.,
KADAMERI, OIN 673 542, VADAKARA TALUK.

BY ADV. SRI.B.KRISHNAN
SRI.R.PARTHASARATHY

RESPONDENTS: RESPONDENTS
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1. **M.P.RAMESHAN, S/O.SANKARAN, AGED NOT KNOWN, GENERAL MERCHANT, MAIN ROAD, P.O.VADAKARA 673 101 (OWNER OF TEMPO VAN KL.11.A-7003.**

2. **CHERUVOTH MANOJ KUMAR, S/O.KUNHIRAMA KURUP, AGED 34 YEARS, P.O.VYKKILASSERI, PIN. 673 104, VADAKARA TALUK , (DRIVER OF TEMPO VAN KL.11. A-7003, DL. NO.678/78- DB)**

3. **THE NATIONAL INSURANCE CO. LTD., BRANCH OFFICE, NARANGAPURAM, P.O. THALASSERY, PIN. 670 101, (INSURER OF TEMPO VAN KL.11.A-7003, POLICY NO.571102/IZ.300/31230/93, VALID FROM 31.3.94 TO 30.3.95.**

BY ADV. SRI.M.A.GEORGE

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 06/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.No.1330 OF 2001

Dated 6th July, 2007

JUDGMENT

Koshy,J.

Appellant in this case met with a motor accident by which he suffered 5% permanent disability as per the certificate produced by him. He claimed a compensation of Rs.18,00,000/=. The Tribunal has awarded a total compensation of Rs.1,22,840/=. According to him, he was employed at Qatar and he was getting 1200 Qatar Riyals equivalent to Rs.10,000/= and he was not able to go back because of the injury as he was laid up and under treatment for more than six months. The Tribunal calculated compensation for 5% disability taking Rs.1,200/= as monthly income. Even though photocopy of the passport was produced, full endorsements were not produced. There is an endorsement that his residential visa was cancelled in 1996. That shows that he went abroad, but, residential visa was cancelled. In any event, Rs.10,000/= as monthly income cannot be taken for the purpose of calculating compensation. The Tribunal has taken Rs.1,200/= as the monthly income and 17 was taken as the multiplier for calculating compensation as the appellant was aged 22 at the time of accident. In 1994, when second schedule was framed, income of a non-earning person was taken

as Rs.1,250/= per month. Taking the fact that appellant was healthy and doing manual work (even according to him he was a labourer in Qatar), Rs.2,400/= ought to have been taken as monthly income for calculating compensation. If that be so, appellant will be entitled to Rs.12,240/= more as compensation for disability. For loss of earnings also he will be entitled to Rs.6,000/= more as we have increased the monthly income for the purpose of calculation. Thus, additional compensation payable will be Rs.18,240/=. The amount of Rs.18,240/= should be deposited by the third respondent insurance company with 7% interest from the date of application till its deposit.

The appeal is partly allowed.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

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